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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,604	01/27/2004	Karla E. Williams	460.1844USV1	3398

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EXAMINER
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ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3764

MAIL DATE	DELIVERY MODE
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08/10/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/766,604	<b>Applicant(s)</b> WILLIAMS, KARLA E.	
	<b>Examiner</b> LYNNE ANDERSON	<b>Art Unit</b> 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 23-25,27,29-33,39,40,42 and 43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-25,27,29-33,39,40,42 and 43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/2/11</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 3 June 2011 have been fully considered but they are not persuasive.
2. In response to the applicant's argument that Marcus discloses molecular sieves, not just zeolites, it is noted that Marcus discusses possible molecular sieves for use in the article other than zeolites, but does not disclose using multiple different molecular sieves in a single article. Marcus discloses in column 3, lines 42-47, an article comprising a molecular sieve. While Marcus discloses different molecular sieves suitable for use in the article, Marcus clearly contemplates providing only one type in a single article. Therefore, Marcus discloses an embodiment in which zeolite is the only molecular sieve provided in the article.
3. In response to the applicant's argument that Marcus states that zeolites are disfavored, it is noted that Marcus discloses in column 4, line 68, to column 5, line 1, that a single type of zeolite, zeolite beta, is disfavored. Marcus does not disclose that all types of zeolite are disfavored for use in absorbent article. Further, it is noted that non-preferred embodiments are still prior art (see MPEP 2123(II)). Therefore, the disclosure by Marcus anticipates the present claims.
4. In response to the applicant's argument that Marcus discloses synthetic materials instead of natural zeolite, it is noted that the present claims do not disclose how the zeolites are considered to be natural. Since zeolites are a naturally occurring

compound, all zeolites can therefore be considered to be natural. The present claims do not require the zeolites be naturally sourced or formed.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 23, 39, 40, and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Marcus et al. (4,826,497).

7. Marcus discloses a tampon, as described in column 1, lines 8-10, comprising zeolite granules disposed between a first nonwoven web 20 and a second nonwoven web 22, as shown in figure 1 and described in column 8, line 65, to column 9, line 2. The zeolite is distributed on the nonwoven webs and the first nonwoven web is bonded to the second nonwoven web, as disclosed in column 8, lines 25-31. Marcus does not disclose any other odor-absorbing materials that are not optional, and therefore the zeolite granules are the sole odor-absorbing materials incorporated into the tampon. The zeolite is clinoptilolite, as disclosed in column 7, line 28.

8. With respect to claim 39, the zeolite has a particle size of about 500 microns, as disclosed in column 12, lines 25-28.

9. With respect to claim 40, the tampon comprises 0.01-10 grams zeolite, as disclosed in column 8, lines 6-9.

Art Unit: 3764

10. With respect to claim 42, the zeolite is natural zeolite, clinoptilolite, as disclosed in column 7, line 28.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 24-25, 27, 29, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marcus et al. (4,826,497) in view of Kramer et al. (5,165,152).

13. With respect to claims 24-25, Marcus discloses all aspects of the claimed invention with the exception of the step of cutting the webs prior to forming the tampon. Kramer teaches the method of forming a tampon by cutting a web to form the tampons, as described in column 10, lines 41-48. This method allows for the high-speed mass production of tampons, as described in the Abstract. It would therefore be obvious to one of ordinary skill in the art at the time of invention to form the tampons of Marcus using the step of cutting taught by Kramer to allow for high-speed mass production of the tampons.

14. With respect to claims 27 and 29, Marcus discloses the zeolite is clinoptilolite, as disclosed in column 7, line 28.

15. With respect to claim 43, the tampon comprises 0.01-10 grams zeolite, as disclosed in column 8, lines 6-9.

Art Unit: 3764

16. Claims 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marcus et al. (4,826,497) in view of Kramer et al. (5,165,152), and further in view of Hoyes et al. (6,030,608).

17. Marcus, as modified by Kramer, discloses a tampon comprising the natural zeolite clinoptilolite, but does not disclose the type of clinoptilolite. Hoyes teaches that clinoptilolite has the chemical name of potassium aluminosilicate. The amount of potassium and the density of clinoptilolite are inherent to the chemical structure of the compound. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the tampon of Marcus with potassium aluminosilicate clinoptilolite, since this is the chemical name of clinoptilolite, as evidenced by Hoyes.

### ***Conclusion***

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3764

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LYNNE ANDERSON whose telephone number is (571)272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn Thanh can be reached on (571) 272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lynne Anderson/  
Primary Examiner, Art Unit 3764